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February 3, 2021

**Via ECF and Courier**The Honorable William H. Pauley III  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street, Room 1920  
New York, NY 10007Re: *Maribel Baez, et al. v. New York City Housing Authority,*  
No. 13-CV-08916 (WHP) (S.D.N.Y.)

Dear Judge Pauley:

On behalf of Defendant New York City Housing Authority ("NYCHA"), we are submitting this letter in response to questions the Court posed during the January 27, 2021 hearing on Plaintiffs' Motion to Enforce the Revised Consent Decree. The questions concern NYCHA-owned housing funded through the Permanent Affordability Commitment Together ("PACT") program. As set out in NYCHA's brief in opposition to Plaintiffs' motion and at the hearing, NYCHA's position is that the Revised Consent Decree ("RCD") does not apply to the PACT program and that any data concerning such housing are thus beyond the scope of the RCD. NYCHA is nonetheless providing the responses below to the Court's questions and will respond to any further questions the Court may have.

*First*, Your Honor requested information regarding the number of units in NYCHA-operated public housing developments that have been converted to PACT Section 8 developments. *See* Hr'g Tr. 45:19-20. To date, 9,517 units in NYCHA-

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operated public housing developments have been converted to PACT Section 8 developments. This represents approximately 5% of all NYCHA-owned housing units. NYCHA currently anticipates converting approximately 12,000 more units through PACT by the end of 2022.

*Second*, Your Honor asked Plaintiffs’ counsel for the percentage of units in NYCHA-operated Section 9 public housing developments that have an open leak or mold work order. *See* Hr’g Tr. 21:2–6. While we understand that Plaintiffs intend to provide this information in their supplemental letter, the Independent Data Analyst has informed us that 23.3% of the units in NYCHA-operated Section 9 public housing developments have an open leak or mold work order as of January 25, 2021—which is substantially the same as the 25% of units in the Manhattan Bundle that had open work orders at the time of conversion. *See* Pl. Mem. at 9, ECF No. 294.

*Third*, Your Honor asked about the status of open work orders that are sent to PACT partners upon conversion and NYCHA’s process for monitoring those work orders. *See* Hr’g Tr. 42:25–43:3, 43:17–18. Currently, NYCHA sends open work orders related to mold and excessive moisture to PACT partners before conversion in accordance with NYCHA’s Mold Memo. NYCHA typically sends such open work orders approximately six months before conversion and then again approximately 10 days before conversion. *See* Russ Decl., Ex. K, ECF No. 305-11. While NYCHA does not currently track each of these individual work orders after conversion, PACT partners do provide NYCHA with monthly updates related to both ongoing maintenance and completion of capital work. Maintenance-related updates include the PACT property managers’ own work orders with respect to new mold-related complaints that arise after conversion, and PACT property managers’ efforts to remediate mold. NYCHA is currently expanding its collection of data from PACT partners to include more detailed information about new work orders, such as the type of repair, trades involved in the repair, and whether the unit has had repeated mold complaints. Further, NYCHA’s Real Estate Development Department (“REDD”) is committed to monitoring the data that it collects, and NYCHA intends to create processes and protocols for identifying “red flags” in order to follow up with PACT partners.

The work orders NYCHA sends to PACT partners upon conversion are also only one piece of information PACT partners use to put together a work plan for addressing mold-related problems during the conversion process. PACT partners also spend months before conversion conducting due diligence and inspections to assess the actual on-site conditions to develop a comprehensive scope of work for major capital improvements—which the PACT program requires. As the letters that NYCHA’s PACT partners submitted to the Court detail, this scope of work goes well beyond ordinary maintenance, and instead also addresses the underlying root causes of mold, such as by replacing or improving roofing, plumbing, and ventilation systems. *See* Laufer Decl., Ex. B, ECF No. 307-2. NYCHA monitors PACT projects during the construction period to ensure the completion of all planned capital work targeted at addressing the underlying causes of mold and excessive moisture.

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*Fourth*, Your Honor asked about NYCHA’s process for determining which NYCHA-operated Section 9 public housing developments are chosen to be converted to PACT Section 8 developments. *See* Hr’g Tr. 44:4–5. REDD uses a data-driven approach to prioritize certain developments for conversion. As discussed in NYCHA’s briefing, PACT is a unique tool that enables NYCHA to comprehensively rehabilitate and address the root causes of underlying issues in its aging housing stock. *See* Russ Decl. ¶¶ 18–25, ECF No. 305. NYCHA thus prioritizes developments for PACT conversion based on several factors.

Specifically, NYCHA prioritizes developments with significant maintenance and repair needs, because it seeks to make investments that will have the greatest impact on residents’ quality of life. To identify developments with the greatest needs, NYCHA incorporates a number of key indicators into a data model, including a “Physical Needs Assessment,” which is developed every five years based on visual inspections of apartments, buildings, grounds, systems, and common areas. The data model also incorporates performance metrics such as management costs and utility costs. Additionally, the model incorporates work order data regarding issues such as pests, elevator outages, heat and hot water outages, mold, and leaks.

NYCHA also takes a neighborhood-based approach to select developments for conversion to PACT, because certain neighborhoods have clusters of NYCHA-operated Section 9 public housing developments that are in poor physical condition. Many of these developments are scattered across large areas without convenient access to management offices or service hubs. They also tend to be some of the oldest developments in NYCHA’s housing portfolio. As a result, these development clusters frequently exhibit higher levels of physical distress and are the most in need of the capital improvements provided through PACT. Thus, contrary to what Plaintiffs suggest, NYCHA does not undertake conversions to evade its responsibilities under the RCD. Rather, it focuses on developments where the PACT program is most needed and can do the most good for tenants.

Additionally, NYCHA regularly evaluates opportunities to create additional revenue for repairs through the construction of mixed-use buildings or the sale of air rights. While this is not a leading factor in determining which developments are converted to PACT, this revenue can be used to help finance the comprehensive modernization of adjacent developments through PACT.

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NYCHA appreciates the Court’s attention to this matter and of course stands ready to provide any additional information the Court may request.

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

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Respectfully submitted,

/s/ Gregory F. Laufer  
Gregory F. Laufer

cc (via ECF): All counsel of record